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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,647	03/04/2002	James E. McGwin JR.	2691-001	6097

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EXAMINER
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OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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04/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/090,647	<b>Applicant(s)</b> MCGWIN, JAMES E.	
	<b>Examiner</b> Jonathan Ouellette	<b>Art Unit</b> 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Request for Continued Examination*

1. The Request filed on 3/11/2008 for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/090,647 is acceptable and a RCE has been established. An action on the RCE follows.

### *Response to Amendment*

2. Claim 2 has been cancelled, and Claims 12-15 have been added; therefore, Claims 1 and 3-15 are currently pending in application 10/090,647.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1 and 7** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically the subject matter: wherein monitoring stimulus from the information source and communicating the process exception are accomplished independent of local communication and information systems infrastructures.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 3-5, 7-10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arunapuram et al. (US 2002/0019759 A1).**

7. As per **independent Claims 1 and 7**, Arunapuram discloses a method for using process exceptions to provide instant notifications for distributed processes (Fig.4; Para 0046-0048, status messages, alarms), comprising: identifying a process; determining a location of a critical point in the process; determining an information source at the critical point in the process (steps all inherently necessary to create method/system disclosed by Arunapuram); monitoring stimulus from the information source (Fig.4; Para 0046-0048, status interface receives status messages); processing said stimulus to detect at least one process exception (Para 0048, status interface generates alarms based on expected early or late arrival messages); communicating the process exception to a messaging controller over a communication mechanism (Fig.4, Para 0046-0048, Shipment Status Interface electronically communicates with Customer Status Interface as part of the execution module); processing the process exception at the messaging controller to determine a recipient to receive a notification and any associated contextual information (Para 0048, system determines

transportation manager, sales office or customer related to shipment, before sending message/alert); and communicating the notification and the associated contextual information to the recipient (Para 0048, message/alert sent); wherein monitoring stimulus from the information source and communicating the process exception are accomplished independent of local communication and information systems infrastructures (Para 0034, Fig.3-5, stimulus/status communication handled by separate electronic manager – equivalent to independently linked communication systems).

8. Arunapuram fails to expressly disclose wherein if the communication of the process exception to the messaging controller is not acknowledged, communicating the process exception to the messaging controller over an alternative communication mechanism.
9. However, Arunapuram discloses a Shipment Status Interface, which electronically communicates status/alert information with the Customer Status Interface as part of the Execution Module (Fig.4, Para 0046-0048). Furthermore, Arunapuram discloses the ability of the system to communicate internally and externally using several forms of communication, such as EDI, email, web, facsimile, or phone (Para 0044-0046).
10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used all available communication methods as back-ups or alternatives if one of the methods was not functioning correctly (network down, power outage, computer down), in order to efficiently and effectively ensure delivery of an important status/alert message to the customer.
11. As per Claims 3 and 8, Arunapuram discloses wherein identifying a process comprises identifying a supply chain process (shipping is a supply chain process).

12. As per Claims 4 and 9, Arunapuram discloses providing a local warning of the process exception at the location of the critical point in the process (Para 0048, alarm).
13. As per Claims 5 and 10, Arunapuram fails to expressly disclose selecting the communication mechanism and alternate communication mechanism from the group consisting of a local area network, Internet, modem, mobile phone, satellite, and page.
14. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The exception notification system/method would be performed regardless of the type of communication/alternate communication mechanism used. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
15. As per new Claims 12 and 14, Arunapuram fails to expressly disclose wherein the process is a supply chain process and the information source is selected from the group consisting of production equipment, environmental sensors, metrology equipment, quality equipment, applications, databases, and news feeds.
16. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The instant notification system would be performed regardless of the information source. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have obtained information from multiple sources, to include: production equipment, environmental sensors, metrology equipment, quality equipment, applications, databases, and news feeds, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.
18. As per new Claims 13 and 15, Arunapuram discloses wherein the process is a supply chain process selected from the group consisting of a manufacturing process, a marketing process, and accounting process, a tax process, a personnel process, a design process, an engineering process, a regulatory process, a quality process, and an environmental variable that impacts quality of a process.
19. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The instant notification system would be performed regardless of the type of business process monitored. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
20. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have monitored a variety of businesses processes to include: a manufacturing process, a marketing process, and accounting process, a tax process, a personnel process, a design process, an engineering process, a regulatory process, a quality process, and an environmental variable that impacts quality of a process, because such data

does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

21. **Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arunapuram in view of Delaney et al. (US 6,842,772 B1).**

22. As per Claims 6 and 11, Arunapuram discloses a Shipment Status Interface, which electronically communicates status/alert information with the Customer Status Interface as part of the Execution Module (Fig.4, Para 0046-0048). Furthermore, Arunapuram discloses the ability of the system to communicate internally and externally using several forms of communication, such as EDI, email, web, facsimile, or phone (Para 0044-0046); however Arunapuram fails to expressly disclose wherein communicating the notification and the associated contextual information to the recipient further comprises as escalation process if the notification is not acknowledged, wherein the escalation process is selected from the group of communication the notification to the recipient over another communication means and communicating the notification to an alternate recipient.

23. However, Delaney discloses a notification communication system which escalates messages based on response to the first message (C1-C2).

24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein communicating the notification and the associated contextual information to the recipient further comprises as escalation process if the notification is not acknowledged, wherein the escalation process is selected from the group of communication the notification to the recipient over another communication means and communicating the notification to an alternate recipient, as disclosed by Delaney in the



system disclosed by Arunapuram, for the advantage of providing a method of providing process exception communication with the ability to increase system effectiveness and efficiency by ensuring the user receives the necessary messages (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

### ***Response to Arguments***

25. Applicant's arguments filed 3/11/2008, with respect to Claims 1 and 3-15, have been considered but are not persuasive. The rejection will remain as NON-FINAL, based on the cited prior art.
26. Regarding the Applicants arguments, the Applicant is directed to the revised rejection and new grounds of rejection above.

### ***Conclusion***

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.

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29. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

April 14, 2008

/Jonathan Ouellette/

Primary Examiner, Art Unit 3629